

EXHIBIT K

π Exhibit K - Page 1 of 5

ROBERT MOSER Confidential
SCHIFF V. CITY OF SAN FRANCISCO

October 21, 2021
5-8

<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS</p> <p>2 -o0o-</p> <p>3 Thereupon --</p> <p>4 Robert Moser,</p> <p>5 was called as a witness, and having been first duly</p> <p>6 sworn to tell the truth, the whole truth, and nothing</p> <p>7 but the truth, testified as follows:</p> <p>8</p> <p>9 EXAMINATION</p> <p>10 BY MR. MULLANAX:</p> <p>11 Q. Good morning, Chief Moser. My name is Greg</p> <p>12 Mullanax and I represent the plaintiffs in this case</p> <p>13 and we're here to take your deposition today. I</p> <p>14 think we'll be done in less than an hour, so</p> <p>15 hopefully that won't cause you too much problem in</p> <p>16 your daily schedule.</p> <p>17 But first of all, I'd like to ask you: Did</p> <p>18 you review any documents in preparation for your</p> <p>19 deposition testimony today?</p> <p>20 A. I did not.</p> <p>21 Q. Okay. Do you -- have you been deposed</p> <p>22 before?</p> <p>23 A. Yes.</p> <p>24 Q. How -- how many times have you been deposed,</p> <p>25 do you remember?</p>	<p style="text-align: right;">Page 7</p> <p>1 Police Department? For example, when were you hired</p> <p>2 by the SFPD?</p> <p>3 A. I was hired in January of 1995.</p> <p>4 Q. And could you give us a brief overview of</p> <p>5 your career with the San Francisco Police Department?</p> <p>6 A. Sure. I spent approx -- approximately seven</p> <p>7 years as a patrol officer assigned to downtown, say,</p> <p>8 well, I was assigned to Northern Station, and then I</p> <p>9 spent a significant amount of time at Southern</p> <p>10 Station as a patrol officer.</p> <p>11 Promoted to sergeant and spent my time as a</p> <p>12 sergeant at Tenderloin Station, probably about</p> <p>13 five -- five years or so.</p> <p>14 Promoted to lieutenant and I spent two years</p> <p>15 as a lieutenant approximately assigned to Central</p> <p>16 Station.</p> <p>17 Then I was transferred to head the</p> <p>18 Department of Internal Affairs unit at which at the</p> <p>19 time was called -- referred to as Management Control</p> <p>20 Division. I did that for, I believe it was close to</p> <p>21 four years.</p> <p>22 And then from there, I was transferred as a</p> <p>23 lieutenant to the Bay View Police Station.</p> <p>24 From Bay View, I was promoted to captain. I</p> <p>25 was captain at Mission Station. Did that for a</p>
<p style="text-align: right;">Page 6</p> <p>1 A. I don't remember the exact number. Probably</p> <p>2 around five.</p> <p>3 Q. Okay. Just to remind you, and I'm sure</p> <p>4 you've testified in court several times over your</p> <p>5 career, but your testimony today is under oath and it</p> <p>6 has the same force and effect as if you were</p> <p>7 testifying in court before a judge and a jury.</p> <p>8 Do you understand that?</p> <p>9 A. I do.</p> <p>10 Q. Okay. And just another admonition, I guess.</p> <p>11 If I ask you a question and you don't understand it,</p> <p>12 please let us know. If -- if you answer a question,</p> <p>13 it will be presumed later on that you understood it.</p> <p>14 Does that make sense?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And also, don't want you to speculate</p> <p>17 on anything. So if I ask you a question today and</p> <p>18 you don't know the answer, don't have any personal</p> <p>19 knowledge, it's perfectly acceptable to tell us that</p> <p>20 and say you don't know.</p> <p>21 Do you understand that?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. First of all, as we get started, I'd</p> <p>24 like to -- could you give us just a general brief</p> <p>25 background of your employment with the San Francisco</p>	<p style="text-align: right;">Page 8</p> <p>1 little over two years or so.</p> <p>2 I was promoted to commander. I was</p> <p>3 commander of investigations approximately a year.</p> <p>4 I was transferred to the Field Operations</p> <p>5 Bureau and I was commander of the Metro, which are</p> <p>6 the downtown stations for approximately two years.</p> <p>7 And from there, I was promoted to deputy</p> <p>8 chief. I was deputy chief of Administration Bureau</p> <p>9 for approximately two years there.</p> <p>10 And then from there, I was appointed to my</p> <p>11 current position as assistant chief, chief of staff.</p> <p>12 And I've been in that position since May of 2019.</p> <p>13 Q. Now, sir, when you were -- do you remember</p> <p>14 who was the chief when you were promoted to deputy</p> <p>15 chief?</p> <p>16 A. Chief Scott.</p> <p>17 Q. Okay. And do you remember what year that</p> <p>18 was?</p> <p>19 A. I believe it was in 2017.</p> <p>20 Q. Now, when did you first become involved in</p> <p>21 the promotional process? Was that in your role as</p> <p>22 deputy chief?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. And in your role as deputy chief</p> <p>25 regarding the promotional process, I guess that would</p>



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ROBERT MOSER Confidential
SCHIFF V. CITY OF SAN FRANCISCO

October 21, 2021
9-12

<p style="text-align: right;">Page 9</p> <p>1 have been around 2017, what was your role in that</p> <p>2 process?</p> <p>3 A. So I would have participated in the</p> <p>4 secondary criteria process with the other deputy</p> <p>5 chiefs and assistant chiefs.</p> <p>6 Q. And what -- could you please describe that</p> <p>7 process for us?</p> <p>8 A. Secondary criteria process is a process of</p> <p>9 reviewing a prospective promotee's secondary criteria</p> <p>10 packet.</p> <p>11 Q. And is -- in that process, did you meet with</p> <p>12 other deputy chiefs and other people on the, I guess</p> <p>13 the committee that was to review those secondary</p> <p>14 criteria documents?</p> <p>15 MR. COWNAN: I'm going to object to the</p> <p>16 form.</p> <p>17 But you can answer, sir.</p> <p>18 MR. MULLANAX: Yeah, it wasn't a very well</p> <p>19 drafted question.</p> <p>20 MR. COWNAN: It was only because you said,</p> <p>21 "Did you meet with." And I just -- that's -- part of</p> <p>22 it is a little bit vague.</p> <p>23 MR. MULLANAX: Yeah.</p> <p>24 BY MR. MULLANAX:</p> <p>25 Q. Could -- Chief, if you could describe when</p>	<p style="text-align: right;">Page 11</p> <p>1 A. I would have to know what the -- what the</p> <p>2 dates of those were.</p> <p>3 Q. I think they were in October.</p> <p>4 A. If they were in October, yes.</p> <p>5 Q. Okay. I'm going to -- what I'm going to do</p> <p>6 is I'm going to pull up -- we don't have a date on</p> <p>7 this document, but I'm going to pull it up and see if</p> <p>8 you can -- let me see. Let me get that.</p> <p>9 Okay. Chief, can you see this document here</p> <p>10 that I've shared on the screen?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And for the record, it's a</p> <p>13 thirteen-page document, and it starts with page</p> <p>14 number CCSF8611 and the last page is CCSF8623.</p> <p>15 (Exhibit 1 was marked for</p> <p>16 identification.)</p> <p>17 BY MR. MULLANAX:</p> <p>18 Q. Do you recognize that document?</p> <p>19 A. Yes.</p> <p>20 Q. And what is it?</p> <p>21 A. It is a secondary criteria comment sheet for</p> <p>22 sergeants promotional.</p> <p>23 Q. And is -- is that your name up there on the</p> <p>24 top?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 10</p> <p>1 you review the secondary criteria, what exactly is</p> <p>2 that process?</p> <p>3 A. Sure. I'd be happy to.</p> <p>4 So the -- each promotee submits a secondary</p> <p>5 criteria packet. That's basically outlined in the</p> <p>6 promotive process of what that packet entails.</p> <p>7 When the review process with the deputy</p> <p>8 chiefs and assistant chiefs occurs, basically what it</p> <p>9 is is that everybody, all those parties, the deputy</p> <p>10 chiefs and the assistant chiefs are in a room and</p> <p>11 each one receives a packet. Basically, it's</p> <p>12 Candidate No. 1, what have you.</p> <p>13 The first person reviews that packet. They</p> <p>14 review it independently. There's no discussion. It</p> <p>15 gets passed to the next person. They review it. No</p> <p>16 discussion. Then it gets passed around the -- around</p> <p>17 the -- around the room, and it goes through every</p> <p>18 candidate that's within -- within the purview during</p> <p>19 that process.</p> <p>20 Q. And once you're finished with that process,</p> <p>21 is that the end of your participation in the</p> <p>22 promotional process?</p> <p>23 A. Yes.</p> <p>24 Q. So were you involved in the promotional</p> <p>25 rounds of 2017?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. And is that your handwriting on this</p> <p>2 document?</p> <p>3 A. It appears so, yes.</p> <p>4 Q. Now, tell us what you use this form for.</p> <p>5 A. This is used to take notes and make</p> <p>6 recommendations on any particular candidate or packet</p> <p>7 that you could review.</p> <p>8 Q. So you have this -- this document with you</p> <p>9 when you're reviewing the sergeants secondary</p> <p>10 criteria?</p> <p>11 A. Yes.</p> <p>12 Q. And these are your notes based on what you</p> <p>13 see in the secondary criteria?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And then, I'm just flipping now to</p> <p>16 page two of the exhibit just to kind of get an idea.</p> <p>17 I noticed it looks like a lot of your</p> <p>18 comments relate to the applicant's educational</p> <p>19 background; is that correct?</p> <p>20 A. Yes, some of them are. Yes.</p> <p>21 Q. Okay. And again --</p> <p>22 MR. MULLANAX: And I don't think, Peter, we</p> <p>23 stated this at the beginning, but this will be</p> <p>24 confidential. These were produced in a confidential</p> <p>25 basis, so we can have this declared a confidential</p>

ROBERT MOSER Confidential
SCHIFF V. CITY OF SAN FRANCISCO

October 21, 2021
33-36

<p style="text-align: right;">Page 33</p> <p>1 record. No. 11 is a five-page exhibit, starting off 2 with page CCSF 20854 and it goes through CCSF 20858. 3 So now I'm back on page 1 of Exhibit 11. 4 And Chief, do you recognize this document? 5 THE WITNESS: Yes. 6 BY MR. MULLANAX: 7 Q. And what is it? 8 A. This is a -- a secondary criteria 9 recommendation and note sheet for lieutenants exam. 10 Q. And is that -- that's your name on top 11 there? 12 A. Yes. 13 Q. And is that your handwriting on this 14 document? 15 A. Yes. 16 Q. And is this the document that you filled out 17 while reviewing the secondary criteria files for 18 those that were seeking promotion to lieutenant? 19 A. Yes. 20 MR. MULLANAX: Okay. Okay. I think we're 21 on our last one here. This is going to be 22 Exhibit 12. 23 (Exhibit 12 was marked for 24 identification.) 25 ///</p>	<p style="text-align: right;">Page 35</p> <p>1 Now, during the promotional process, let's 2 say since 2017, did you ever have any discussions 3 with Chief Scott about any of the individual 4 candidates for promotion? 5 A. No, not that I recall. 6 Q. Did -- did he ever call you or -- because my 7 understanding is that the chief was appointed back in 8 early 2017. And then these first round of promotions 9 were done around October of 2017. 10 Do you know, did he ever talk with you about 11 any of the candidates on his own volition since he 12 was new to the department? 13 A. Are you referring to a specific date? Could 14 you clarify that? 15 Q. Yeah, let's say in 2017, when the 16 promotional rounds going on then, did Chief Scott 17 ever contact you to ask you about any of the 18 individual candidates that were up for promotion? 19 A. No. 20 Q. So is it safe to say that you had no 21 conversations at all with Chief Scott about any of 22 the promotions in the -- let's say the rounds of 23 2017? 24 A. That's correct. 25 Q. Okay. Then would the same thing apply to</p>
<p style="text-align: right;">Page 34</p> <p>1 BY MR. MULLANAX: 2 Q. And it's one-page document and it's page 3 number CCSF 20864. 4 Do you see this document, sir? 5 A. Yes. 6 Q. And what is it? 7 A. This is the secondary criteria 8 recommendation and note sheet for the captain exam. 9 Q. And is this your -- do you recognize the 10 handwriting on this document? 11 A. Yes. 12 Q. And is it your handwriting? 13 A. Yes. 14 Q. And that's your name on top, isn't it? 15 A. Yes. 16 Q. Okay. And is -- is this the document you 17 filled out while you were reviewing the secondary 18 criteria files for those seeking promotion to 19 captain? 20 A. Yes. 21 Q. Okay. All right. 22 I think -- now, I just have a couple more 23 questions and then I think we'll be finished. 24 Oh, I forgot to -- the last document. What 25 was -- I just want to make sure my notes are correct.</p>	<p style="text-align: right;">Page 36</p> <p>1 the rounds in 2018 and 2019? 2 MR. COWNAN: You're asking him if he -- if 3 he had specific conversations or conversations about 4 specific candidates, correct? 5 MR. MULLANAX: Yes, with Chief Scott. 6 THE WITNESS: I don't recall those, any 7 conversations. 8 MR. MULLANAX: Okay. Can we take -- I think 9 I'm finished, but can we take maybe a five-minute 10 break? 11 MR. COWNAN: Yeah, let's go off the record. 12 MR. MULLANAX: Okay. Let's go off the 13 record. 14 (Short recess taken.) 15 MR. MULLANAX: All right. I just have a 16 couple more questions. We are back on the record 17 with Chief Moser. 18 BY MR. MULLANAX: 19 Q. Chief, do you realize that even though we 20 took a break, you're still under oath? 21 A. Yes. 22 Q. Okay. I've just got a couple follow-up 23 questions for you and then we'll be finished. 24 Do you recall after the -- the rounds of 25 promotions back in 2017 and 2018, do you recall</p>



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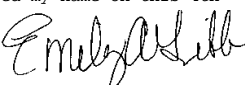
ROBERT MOSER Confidential
SCHIFF V. CITY OF SAN FRANCISCO

October 21, 2021
 41-42

Page 41

1 Case: Frederick (Ric) Schiff vs. City and County of
 2 San Francisco
 3 Civil No: 4:19-cv-03260-YGR
 4 Reported By: Emily A. Gibb, RPR, CSR, NV CCR 709
 5 Date Taken: Thursday, October 21, 2021
 6
 7 WITNESS CERTIFICATE
 8 I, Robert Moser, HEREBY DECLARE:
 9 That I am the witness in the foregoing
 10 transcript; that I have read the transcript and know
 11 the contents thereof; that with these corrections, I
 12 have noted this transcript truly and accurately
 13 reflects my testimony.
 14
 15 PAGE-LINE CHANGE-CORRECTION REASON
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____
 26 No corrections were made.
 27 I, Robert Moser, deponent herein, do hereby
 28 certify and declare under penalty of perjury the
 29 within and foregoing transcription to be true and
 30 correct.
 31
 32 _____
 33 Robert Moser, Deponent
 34 SUBSCRIBED and SWORN to at _____
 35 _____, this _____ day of _____, 2021.
 36
 37 _____
 38 Notary Public

Page 42

1
 2 REPORTER'S CERTIFICATE
 3 STATE OF UTAH)
 4)
 5 COUNTY OF UTAH)
 6
 7 I, EMILY A. GIBB, a Certified Shorthand
 8 Reporter and Registered Professional Reporter, hereby
 9 certify:
 10
 11 THAT the foregoing proceedings were taken
 12 before me at the time and place set forth in the
 13 caption hereof; that the witness was placed under
 14 oath to tell the truth, the whole truth, and nothing
 15 but the truth; that the proceedings were taken down
 16 by me in shorthand and thereafter my notes were
 17 transcribed through computer-aided transcription; and
 18 the foregoing transcript constitutes a full, true,
 19 and accurate record of such testimony adduced and
 20 oral proceedings had, and of the whole thereof.
 21 I have subscribed my name on this 4th
 22 day of November, 2021. 
 23 _____
 24 Emily A. Gibb, RPR, CSR, CCR
 25



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